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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAN JOSE WATER COMPANY (U 168 W) for an Order Approving the Sale of the Main Office under Section 851 and Authorizing the Investment of the Sale Proceeds under Section 790.

Application 07-01-035
(Filed January 22, 2007)

**ADMINISTRATIVE LAW JUDGE'S RULING
MODIFYING PROCEEDING SCHEDULE**

Summary

This ruling establishes the proceeding schedule in the above-entitled matter. The scope of the proceeding remains unchanged from that established by the March 30, 2007 Assigned Commissioner's Scoping Memo and Ruling (March 30 ACR/Scoping Memo).

Background

On June 15, 2007, I issued a ruling suspending the schedule in this proceeding and indicating my intent to recommend dismissal of Application (A.) 07-01-035 (Application). On June 25, 2007, San Jose Water Company (SJWC) filed a motion for reconsideration of the June 15 ruling (Motion). On September 13, 2007, the assigned Commissioner issued a ruling granting, in part, SJWC's Motion (September 13 ACR). The September 13 ACR found that the

Application was appropriately filed as required under § 851.¹ The September 13 ACR also found that the property to be sold is necessary and useful utility property, and any proceeds from the sale of SJWC's main office are not eligible for reinvestment pursuant to § 790. Finally, the September 13 ACR lifted the suspension of the schedule in this proceeding and directed the administrative law judge (ALJ) to issue a ruling to schedule hearings in this proceeding, unless SJWC informed the ALJ in writing by September 21, 2007, that it did not wish to proceed with the Application.

On September 25, 2007, SJWC notified the ALJ via email that it wished to proceed with its Application. On October 4, 2007, I issued a ruling scheduling a prehearing conference (PHC) to determine a new proceeding schedule, identify any changes in the scope of the proceeding, and to discuss other procedural matters. On October 16, 2007, a PHC was held where SJWC and the Division of Ratepayer Advocates (DRA) were in attendance.

At the October 16, 2007 PHC, I asked whether any party saw the need to modify the scope of the proceeding in light of the findings made by the September 13 ACR, or due to other events that have transpired since the Application was filed. In particular, I sought to determine whether there were issues of cross-subsidization or affiliate transactions that should be considered in light of SJWC's plan to use only a portion of the replacement building for public utility service and to seek recovery of costs related only to that portion of the replacement building dedicated to public use.²

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

² SJWC's May 7, 2007 Supplemental Testimony indicates SJWC will pay \$6.7 million for property located at 110 West Taylor Street in downtown San Jose to replace SJWC's

Footnote continued on next page

Neither SJWC nor DRA recommended changes to the scope of the proceeding. However, DRA recommended that SJWC revise and update the Application because it believes the economic analysis and revenue requirement analysis contained in the Application have changed as a result of SJWC's purchase of a replacement property for \$6.7 million, an amount substantially greater than the \$3.795 million SJWC requests for inclusion in rate base. DRA also wants to examine what SJWC intends to do in the future with the replacement property's "excess" space that remains after space has been allocated to public utility service.

SJWC states that it will own and use the replacement property, and that it has no plans at this time to allow affiliates or others to use any portion of the replacement property. Therefore, SJWC contends, there are no cross-subsidy or affiliate issues before the Commission at this time. SJWC also states that the economic analysis and revenue requirement analysis contained in the Application have not changed because SJWC has not changed its request. Although SJWC will pay \$6.7 million for the replacement property, its request for inclusion of \$3.795 million in rate base remains unchanged. SJWC states that, if at some point in the future SJWC can justify using more of the replacement

main office. On June 11, 2007, DRA requested an extension of time and a new PHC to address what DRA considered significant inconsistencies between SJWC's Application and the May 7, 2007 Supplemental Testimony. In its June 12, 2007 email response, SJWC states that the building it will purchase has approximately 28,000 ft.² of office space but that SJWC intends to use only 15,000 square feet of the building for its public utility services. SJWC further stated that it still seeks to include only \$3.75 million [SIC] in rate base.

building for public utility service, it will make such a proposal in a future proceeding.

The parties agreed upon the following schedule, assuming there were no changes to the proceeding scope.

Event	Date
DRA Testimony Due	November 16, 2007
SJWC Rebuttal Testimony Due	December 5, 2007
Evidentiary Hearings	December 19 & 20, 2007
Post Hearing Opening Briefs Due	January 18, 2008
Post Hearing Reply Briefs Due	January 28, 2008
Proposed Decision Issued	March 24, 2008
1st Commission Meeting to Consider Decision	Not sooner than 30 days after PD issued.

Discussion

No party requests or recommends any change to the scope of the proceeding. Given SJWC's representation that it will entirely own and use for its own purposes the replacement property and that it has no plans at this time to allow affiliates or others to use any portion of the replacement property, I find there are no cross-subsidy or affiliate transaction issues to consider at this time.

DRA contends that the cost of the replacement property has changed, and that this will affect the economic and revenue requirement analysis. However, according to SJWC, it continues to seek recovery in rates \$3.795 million for the purchase of a replacement property (plus relocation and renovation costs) as presented in its Application. Thus, SJWC's request has not changed, and,

therefore, I find that it is not necessary for SJWC to update or otherwise revise the Application.

Further, it is premature to consider in this proceeding what SJWC may or may not do with any excess office space that it does not seek to place in rate base. If at some point in the future SJWC seeks to place this property in rate base, the matter should be examined at that time.

Hearings are scheduled for December 19-20, 2007. If the hearings are to go forward as calendared, on or before Friday, December 14, 2007, SJWC is directed to organize a telephonic meet-and-confer conference with all parties to identify the principal issues on which the hearings will focus, key disputes, and any stipulations or settlements. Parties should also use the meet-and-confer to discuss witness schedules, time estimates from each party for the cross-examination of witnesses, scheduling concerns, and the order of cross-examination. The first morning of hearings on December 19, 2007 will begin at 10:00 a.m., but the time may be adjusted on subsequent days according to the participants needs.

IT IS RULED that:

1. The schedule for the remainder of this proceeding is set forth in the table above.
2. Except for changes to the proceeding schedule and hearing preparation instructions set forth above, the scope of the proceeding and all other provisions specified in the March 30, 2007 ACR/Scoping Memo remain unchanged and in effect.

Dated October 30, 2007, at San Francisco, California.

/s/ RICHARD SMITH
Richard Smith
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

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Dated October 30, 2007, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

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